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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Section 19)
of the Cable Television)
Consumer Protection and)
Competition Act of 1992)

CS Docket No. 94-48

Annual Assessment of the)
Status of Competition in the)
Market for the Delivery of)
Video Programming)

To: The Commission

COMMENTS OF PRIMESTAR PARTNERS L.P

PRIMESTAR Partners L.P. ("PRIMESTAR"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules (47 C.F.R. § 1.415), hereby submits these Comments in response to the Commission's Notice of Inquiry ("NOI"), released in the above-captioned proceeding on May 19, 1994.¹

I. INTRODUCTION

The Commission adopted the NOI for the purpose of gathering information regarding the status of competition in the market for

¹ FCC 94-119, released May 19, 1994.

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delivery of video programming in anticipation of its first report to Congress on that subject. Under the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),² that report is due on October 1, 1994.³

At Paragraph 29 of the NOI the Commission recognizes that PRIMESTAR began delivering video programming directly to consumers via a medium-power fixed satellite in late 1990. At Paragraph 31 of the NOI, the Commission specifies certain information that it wishes to confirm or obtain with respect to PRIMESTAR's multichannel video program distributor services and operations. To the extent PRIMESTAR possesses the information requested, and does not consider it proprietary, PRIMESTAR hereby responds to the Commission's NOI request.

II. RESPONSE TO PARAGRAPH 31 QUESTIONS

In the remainder of these Comments, PRIMESTAR will supply certain of the information sought by the Commission under Paragraph 31 of the NOI. At the outset, however, PRIMESTAR wishes to stress that its medium-power direct-to-home ("DTH") satellite business is just completing the developmental stage and entering an accelerated market roll-out, including a switch to digital compression transmission and reception equipment and the eventual

² Pub. Law No. 102-385, 106 Stat. 1992.

³ Section 19(g) of the 1992 Cable Act, 47 U.S.C. § 458(g), specifies that the Commission is to report annually to Congress on the status of competition in the video programming delivery market, with the first report due 18 months after the Commission promulgated program access rules under the 1992 Cable Act.

migration to next generation satellites in the 1996-97 time frame.⁴ Accordingly, some of the information requested by the Commission regarding how the medium-power DTH business will develop currently is not available, or speculative at best. Moreover, PRIMESTAR's DTH service will face competition from multiple high-power direct broadcast satellite ("DBS") services,⁵ as well as cable and wireless cable services and video dialtone providers. In view of the highly and increasingly competitive nature of the program delivery business, there are certain information and business projections that the Commission has requested which PRIMESTAR believes are too sensitive for public disclosure. Thus, some of PRIMESTAR's responses to the Commission's questions will be of a general nature rather than providing specific marketing and sales strategies and projections.

Within the foregoing general principles, PRIMESTAR hereby submits the information requested by the Commission in Paragraph 31 of the NOI, following the subparagraph sequence and designations contained therein.

⁴ See, Applications of GE American Communications, Inc., FCC File Nos. 18-DSS-P/LA-94 and 19-DSS-P/LA-94.

⁵ Two high power DBS services, GM Hughes Electronics, Inc.'s DirectTv and Hubbard Broadcasting, Inc.'s USSB services, began their roll-out this month. "DirectTv Sets a Date," Satellite Business News, Vol. 6, No. 12 (June 15, 1994). Another DBS entrant, EchoStar Communications Corporation, has completed a \$335 Million financing to construct and launch two DBS satellites to begin operation in 1998. "SEC OKS Echostar Offer," Satellite Business News, Vol. 6, No. 12 (June 15, 1994).

A. Number and Location of PRIMESTAR Subscribers

As of June 4, 1994, PRIMESTAR had a total of 70,383 subscribers located throughout the United States. Until recently, PRIMESTAR's transmission were in the analog mode, but it has begun to transition its installed base of subscribers to digital technology, and all new subscribers are being equipped with digital integrated receiver decoders ("IRDs"). PRIMESTAR currently estimates that the transition of all its analog subscribers to digital technology should be completed by July 31, 1994.

B. Number of Subscribers in Cable Service Areas and Reasons They Choose DTH

Although the PRIMESTAR service will be available, and marketed at times, on a national basis, the initial, primary marketing focus for PRIMESTAR's services (and the one where PRIMESTAR believes its subscriber base will grow most rapidly) is in the areas not passed by cable or wireless cable where consumers have rejected existing DTH satellite services based on cost, complexity, etc. Not surprisingly, therefore, PRIMESTAR has concentrated its early efforts in those areas so far, and about 90% of PRIMESTAR's subscribers are located outside areas served by cable television. With respect to the approximately 10% of PRIMESTAR's subscribers located within cable service areas, there appear to be a number of factors that may have motivated these subscribers to choose DTH over cable, including perceptions of expanded programming choice and access to pay-per-view ("PPV") services, technology/customer service advantages, positive price/

value relationship and some level of dissatisfaction with cable service. So far as PRIMESTAR has been able to determine, there does not appear to be any one predominant reason why consumers have chosen PRIMESTAR's service over cable television service in areas where they have a choice.

**C. Total Potential Subscriber Base/
Projected Subscriber Levels**

PRIMESTAR estimates that the areas of the country not passed by cable contain 10 to 11 million households. If one adds to this the number of households in cable areas that research suggests might subscribe to DTH service, PRIMESTAR estimates that an aggregate of at least an initial 12 to 15 million households will be ripe for receiving DTH satellite programming services. PRIMESTAR's ability to attract subscribers in its DTH satellite business in unpassed and passed areas will depend on numerous factors, including the price and quality of PRIMESTAR's services and equipment versus alternative program delivery methods, including but not limited to cable, video dialtone, other DBS or DTH services, and wireless cable services. PRIMESTAR projects that it will serve in excess of 200,000 subscribers by year end 1994 and in the range of 2-5 million by the end of the decade.

D. Total PRIMESTAR Channel Capacity

PRIMESTAR began its service with 20 channels (11 video, 9 audio) of programming, all of which were transmitted in the analog format. Currently, with its conversion to digital compression in progress, PRIMESTAR offers 37 channels (31 video and 6 audio). By the end of July 1994, when its digital conversion is currently

estimated to be completed, PRIMESTAR will be able to offer 77 channels (71 video and 6 audio). In addition, that number will grow by some factor when PRIMESTAR migrates in 1995 to even more sophisticated compression equipment. Ultimately, upon transition to PRIMESTAR's next generation satellites in 1996, PRIMESTAR will be able to offer more than 150 channels of programming.

E. Installation Charges

Installation charges levied by PRIMESTAR distributors for PRIMESTAR's service range between \$100.00 and \$300.00, which is considerably higher than the published ranges of cable installation charges (which PRIMESTAR understands typically to be from \$0 to \$75.00). Nevertheless, based on PRIMESTAR's surveys (which reflect high levels of customer satisfaction) the installation charge does not appear to be an impediment to attracting subscribers. PRIMESTAR distributors' monthly service charges (which include both programming and use of all equipment) are generally comparable to cable television's monthly charges for comparable programming.

F. Uniform Pricing

PRIMESTAR's distributors establish the prices they will charge consumers for the PRIMESTAR programming. Thus, there is no national uniform retail price for PRIMESTAR's service. Each distributor bases its pricing decisions independently on local cost and competitive conditions.⁶ A typical PRIMESTAR distributor

⁶ The only exception is PRIMESTAR's PPV Services. For PPV programming, PRIMESTAR establishes the retail price and the distributors function as PRIMESTAR's sales agents.

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charges in the range of \$30 per month for the base PRIMESTAR service.

G. Additional Medium-Power DTH Services

PRIMESTAR is unaware of any additional entities planning to offer medium-power DTH service.⁷

H. Marketing

PRIMESTAR's distributors are primarily responsible for marketing the PRIMESTAR services at the local level, although PRIMESTAR will increase its own nationwide marketing efforts in support of the distributors as it completes its digital conversion and has more programming services to offer. PRIMESTAR's distributors maintain a local presence in their service areas and provide the consumer with "one-stop shopping" for equipment, installation, maintenance and programming. The consumer reception equipment is offered by all distributors on a monthly rental basis, and distributors may provide the equipment for sale to consumers if the consumer desires to own the hardware. As indicated above, the majority of PRIMESTAR's subscribers are in unserved areas simply because those areas provide the best

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PRIMESTAR's current price for standard PPV movie events is \$4.95, with special events priced on a varying basis.

⁷ Within the last few weeks, Echostar Communications Corporation ("Echostar") filed an application with the Commission to construct and launch two Ku Band medium-power satellites. In its application, Echostar stated its intent to develop its own DBS system for a DTH business. The Commission has not yet determined that the application is acceptable for filing and has not placed it on public notice. See, Application of Echostar Satellite Corporation, FCC File Nos. 36-DSS-P/LA-94 and 37-DSS-P/LA-94.

opportunities for penetration and rapid growth in PRIMESTAR's subscriber base.

I. Medium-Power DTH as Cable Competitor

The extent to which medium-power DTH will become a full fledged competitor to cable, and the timetable for doing so, are uncertain. How the competition unfolds will depend on a number of variables, including changes in the cost of equipment, technological advances in compression equipment, the impact of other alternative providers such as wireless cable and video dialtone, as well as the marketplace offerings and responses of cable service and other providers.

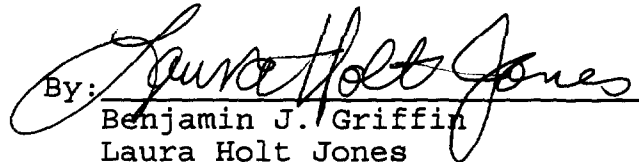
PRIMESTAR believes that its (as well as other DTH or DBS providers) initial activity will be focused on potential customers in the unserved areas of the country, as these areas will likely be the easiest and most rewarding to penetrate. From there, it is likely that DTH and DBS providers will move from unserved to "underserved" areas -- i.e., those areas that have some cable service of a limited nature (e.g., systems with limited channel capacity or with pockets of unserved populations) where DTH and DBS providers can offer a higher level of service and programming. PRIMESTAR believes that urban markets presently served by state-of-the-art cable systems will be the greatest challenge for DTH or DBS providers. In these areas, DTH and DBS providers may present fewer perceived advantages to consumers, and the disadvantages of DTH and DBS providers (e.g., lack of local broadcast retransmission and lack of local programming (news, sports, etc.) options) will be most pronounced.

CONCLUSION

In the foregoing comments, PRIMESTAR has attempted to respond to the questions directed specifically to PRIMESTAR's services and operations. PRIMESTAR has provided the Commission with the information within PRIMESTAR's possession, subject to PRIMESTAR's legitimate needs to maintain in confidence sensitive business and marketing data and forecasts.

Respectfully submitted,

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